

IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA and)
THE STATE OF MICHIGAN,)
)
Plaintiffs,)
)
v.)
)
NCR CORPORATION,)
)
Defendant.)

Civil Action No. 1:19-cv-1041
Chief Judge Robert J. Jonker
Magistrate Judge Ray Kent

**UNITED STATES' MOTION TO ENTER THE CONSENT
DECREE WITH NCR CORPORATION**

The United States asks this Court to approve and enter the Consent Decree with NCR Corporation ("NCR"), which was lodged on December 11, 2019. ECF. No. 2. The United States and the State of Michigan (the "State") sued NCR under Sections 106 and/or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606 & 9607, for recovery of the United States Environmental Protection Agency's ("EPA") unreimbursed past and future response costs and the performance of work associated with the clean-up of the Allied Paper/Portage Creek/Kalamazoo River Superfund Site ("Kalamazoo Site" or the "Site"). Simultaneously, the United States and the State lodged a Consent Decree valued at more than \$245 million, which resolves NCR's liability at the Site. Under the Consent Decree, NCR will: (1) perform cleanup work at the Site at an estimated cost of \$135.7 million; (2) pay \$76.5 million for past and future response costs at the Site; (3) pay \$27 million for natural resources damages, including \$2 million for assessment costs; and (4) pay \$6 million to the State for past and future response costs. NCR will also withdraw its appeal of

this Court's judgment in *Georgia-Pac. Consumer Prod. LP v. NCR Corp.*, 1:11-cv-483 (W.D. Mich.) and satisfy the judgment by paying approximately \$20 million to Georgia-Pacific Consumer Products LP, Fort James Corporation, and Georgia-Pacific LLC (collectively, "Georgia-Pacific" or "GP").

After lodging the Consent Decree, the United States also published notice of the proposed settlement in the Federal Register to solicit public comments and held a 60-day public comment period, which closed on February 18, 2020. *See* 84 Fed. Reg. 68,946 (Dec. 17, 2019); 85 Fed. Reg. 529 (Jan. 6, 2020). The United States received 11 sets of comments, which are attached as Appendix A. Notwithstanding these comments, the United States believes that the Consent Decree is fair, reasonable, and consistent with CERCLA and the Court should approve and enter the Decree. The Consent Decree ensures the next decade of cleanup work at the Site will proceed without interruption or delay, provides substantial funding to perform additional cleanup work, and provides early funding for restoration projects to address natural resources damages at the Site that would otherwise not occur for years.

Respectfully submitted,

KAREN S. DWORKIN
Deputy Section Chief
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice

Date: May 22, 2020

s/ Kristin M. Furrie
KRISTIN M. FURRIE
Senior Counsel
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044
(202) 616-6515
Kristin.Furrie@usdoj.gov

ANDREW BYERLY BIRGE
United States Attorney
Western District of Michigan

Adam B. Townshend
Assistant United States Attorney
Western District of Michigan
330 Ionia Ave. N.W., Suite 501
Grand Rapids, MI 49503

Of Counsel:
NICOLE WOOD-CHI
Associate Regional Counsel
U.S. Environmental Protection Agency - Region 5
77 W. Jackson Blvd. (C-14J)
Chicago, IL 60604